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33. A method for controlling helminths which comprises applying an effective amount of a compound as claimed in claim 25 to a site where said helminths reside.

34. A composition for controlling arthropods or helminthes which comprises an effective amount of a compound according to claim 25 and formulation auxiliary.

35. The composition according to claim 34, wherein the formulation auxiliary is a carrier or a surfactant.

36. A veterinary composition which comprises an effective amount of a compound according to claim 25.--

REMARKS

This invention relates to heterocyclic acylsulfimides, to processes for their preparation and to their use as pesticides. Applicants discovered that the inventive compounds possess a good spectrum of activity against animal pests while being well tolerated by mammals and aquatic animals.

The Examiner is thanked for withdrawing all of the rejections based upon prior art.

Pursuant to 37 CFR 1.136(a) Applicants petition the Assistant Commissioner to extend the time period to file a response to the outstanding Office Action by two (2) months, *i.e.*, up to and including February 11, 2002. A check for \$410.00 is enclosed to cover the cost of this petition. It is believed that no further fee is required for the consideration of this Amendment. However, if an additional fee is due, the Assistant Commissioner is authorized to charge such fee, or credit any overpayment, to Deposit Account 50-0320.

This Amendment cancels all the pending claims in favor of a new set of claims. Applicants are submitting this new set of claims in order to reach a reasonable compromise with

the Examiner with respect to the amount of time required to search the claimed subject matter. Applicants do not intend for this new set of claims to create any estoppel because Applicants are making these changes either in response to the Restriction Requirement (i.e., the compounds where X is N or claim 19 to 12 or 15 to 19) or in order to reduce the time requested for the Examiner to search the claimed subject matter (*e.g.*, substituent or the heterocyclic expression). Again, Applicants reserve the right to file a divisional application directed to the cancelled embodiments.

Applicants have retained the claim directed to veterinary compositions. Applicants urge that searching this claim is not an undue burden since if the compounds of claim 25 are novel and non-obvious, then the composition that contains this claim must also be novel and non-obvious. Hence, reconsideration and withdrawal of the Restriction Requirement with respect to claim 35 is requested.

Claims 25 to 34 primarily find support in the claims which they replace. Support for the heterocycle expression is found on pages 12 and 13. Support for the substituents on the various aliphatic, aromatic and heterocyclic ring systems is found on page 14 of the specification. Support for the heteroatoms in the cyclic system is found, for example, on page 8, line 6 or in the Examples. The term "condensed with one or two optionally substituted phenyl radicals or an optionally substituted 5-or 6-member saturated ring" is found on pages 8 and 9 of the specification as well as in the Examples (*see, e.g.*, compound in 415 to 423). Support for the specific rings recited at the end of the cyclic system is found in Examples 29, 30, 530 and 531. Thus, no new matter is added by this Amendment.

Claims 1 and 6 stand rejected under 35 USC § 112, first and second paragraphs, for allegedly being indefinite. For the reasons that follow, reconsideration and withdrawal of these rejections are requested.

The rejection argues that the recitation of the terms “heterocycle”, “substituted” and “aryl” are indefinite. Applicants urge that one of ordinary skill in the art would understand the meaning of this term when read in light of the specification and in view of the fact that these terms are recognized in the art. Since these terms would have a clear and definite meaning to a practitioner of this art, the terms are enabled. Thus, reconsideration of this rejection is requested.

The Statute requires that an applicant must particularly point out and distinctly claim the subject matter to be patented. *In re Borkowski*, 164 USPQ 642, 645 (CCPA 1970). Provided that one skilled in the art can understand from the claim language the scope of the patent protection sought, the requirements of 35 U.S.C. § 112, second paragraph are met. *See, In re Wiggins*, 179 USPQ 421, 423 (CCPA 1973); *Amgen Inc. v. Chugai Pharmaceutical Co.*, 18 USPQ2d 1015, 1030 (Fed. Cir. 1991). In evaluating the claim language, the claim must be read in light of the specification. *Orthokinetics Inc. v. Safety Travel Chairs Inc.*, 1 USPQ2d 1081, 1088 (Fed. Cir 1986).

Applicants urge that the terms “aryl”, “substituted” and “heterocycle” adequately convey to the skilled artisan the scope of the patent protection sought when they are read in light of the specification. The term “aryl” is defined on page 8 of the specification and the various substitutents are discussed on pages 14 and 15.

The specification defines the term “heterocycle” on pages 8 and 9. The specification not only provides sizes for the rings, but also identifies the nature of some of the heteroa-

toms. Moreover, the specification provides examples of rings in the discussion. Further, Table 1 lists numerous examples which contain heterocyclic rings.

Upon reading this language, the practitioner would know which heterocyclic moieties are claimed. The practitioner would simply form a list of rings making the required substitutions. Examples of such moieties are piperdine, pyridine, thiophene, pyrrolidine, etc.

That this language would convey to the practitioner the types of compounds claimed resides in the fact that the expression is conventional in the art. As evidence of this, the attention of the Examiner is respectfully directed to claim 1 of the following excerpts of U.S. Patents, which were issued by Group 1200:

5,583,132
5,574,024
5,559,232
5,510,343
5,441,960

As claim 1 of these patents recites the expression "aryl", "heteroalkyl", "heteroaryl", etc., these terms must have a clear and definite meaning to the practitioner in the art. Applicants respectfully submit that either Statute or case law support the position that the classification system at the USPTO and the amount of time that an examiner has to search may limit the scope of the invention; simply that is an administrative problem at the U.S. Patent Office and should be resolved internally.

With respect to the rejection of claim 6 as being "a run-on-sentence," it should be noted that as the Statute requires that a claim cannot be more than one sentence, all claims by their nature are run-on sentences. Moreover, there is nothing in the Statute or in case law that limits the number of definitions for a variable. Further, it is urged that the list is readily understood by a practitioner of this art and the U.S. Patent Office routinely grants variables which

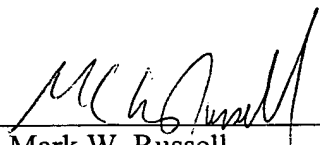
contain a long list of substituents; hence, the presence of a long list of substituents is not contrary to the policy of the U.S. Patent Office. Accordingly, it is urged that this objection to the claims is unjustified and should be withdrawn.

On page 8 the rejection argues that the claims are not adequately enabled because they are indefinite. In view of the foregoing, it is urged that the claim are not indefinite. Hence, it is urged that the claims are also enabled. Moreover, with respect to enablement it should be noted that the first paragraph of 35 U.S.C. § 112 requires nothing more than objective enablement. Whether this is achieved by illustrative examples or by broad terminology is of no importance. *In re Marzocchi*, 169 USPQ 367 (CCPA 1971). An assertion by the Patent Office that the enabling disclosure is not commensurate in scope with the protection sought must be supported by evidence or reasoning substantiating the doubts so expressed. *In re Dinh-Nguyen*, 181 USPQ 46 (CCPA 1974); *In re Bowen*, 181 USPQ 48; (CCPA 1974) *In re Armbruster*, 185 USPQ 152 (CCPA 1975). The specification provides processes for preparing the inventive compounds on pages 15 to 26. Beginning on page 40, the specification provides the synthesis on specific compounds and in Table 1 numerous examples are listed. In view of this disclosure, Applicants urge that one would know how to make the inventive compounds.

Favorable action is earnestly solicited.

Respectfully submitted,

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